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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,569	11/25/2003	Timothy J. Peter	013002-9051-00	5790
23409	7590	07/15/2004	EXAMINER	
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MILWAUKEE, WI 53202				PAPER NUMBER
				3671

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/721,569	PETER ET AL.
	Examiner	Art Unit
	Alicia M Torres	3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 November 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8 and 12-19 is/are rejected.

7) Claim(s) 9-11 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) All    b) Some \* c) None of:  
         1. Certified copies of the priority documents have been received.  
         2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 12/15/03.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

*Specification*

1. The disclosure is objected to because of the following informalities:

Page 4, line 2 of paragraph 0021 "the cart 78" should be changed to --the cart 70--.

Appropriate correction is required.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Takahashi et al., hereafter Takahashi.

Sullivan discloses a lawn and garden implement comprising:

a lawnmower (42);

a collecting apparatus (8) for collecting said clippings, said collecting apparatus (8)

including a plurality of walls at least partially defining a collection space, a collecting opening communicating with said collection space, and at least one wheel (22) rotatable with respect to the rest of said collecting apparatus (8); and

means (17, 40) for releasably mounting said collecting apparatus (8) to said lawnmower (42) such that said discharge opening is substantially aligned with said collecting opening to cause clippings to flow into said collection space, and such that said at least one wheel (22) is in

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a stowed condition and supports substantially no weight of said collecting apparatus (8) when said collecting apparatus (8) is mounted to said lawnmower (42);

wherein said at least one wheel (22) at least partially supports said collecting apparatus (8) upon the detachment of said collecting apparatus (8) from said lawnmower (42) to facilitate hauling away clippings in said collecting apparatus (8), as per claim 1; and

further comprising a handle (24) attached to said collecting apparatus (8) and movable between a mowing position and a hauling position, said handle (24) being in said mowing position when said collecting apparatus (8) is mounted to said lawnmower (42) and in said hauling position when hauling clippings in said collecting apparatus (8), as per claim 3; and

wherein said handle (24) includes first and second arms (25) and a cross member (26) between first ends of said arms (25), wherein second ends of said arms (25) are pivotally interconnected with said collecting apparatus (8, at 23), and wherein said handle (24) is pivotable between said mowing and hauling positions, as per claim 6; and

wherein said collecting apparatus (8) includes first and second pivot pins (23) fixed with respect to said walls and defining a pivot axis (at 23) for said handle (24), wherein said second ends of said first and second arms (25) each have pivot apertures into which said first and second pivot pins (23) are respectively received to interconnect said handle (24) to said collecting apparatus (8) such that said handle (24) is pivotable about said pivot axis (at 23), as per claim 7.

However, Sullivan fails to disclose wherein the lawnmower has a deck, a mower handle extending upwardly from said deck to facilitate manipulating said lawnmower, an engine supported by said deck, a cutting blade under said deck and rotating under the influence of said

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engine, a discharge opening in said deck through which vegetation clippings cut by said cutting blade may escape from under said deck;

said collecting apparatus including a plurality of substantially rigid walls at least partially defining a collection space, as per claim 1; and

wherein said collecting apparatus has an open top and further includes a removable screen over said open top to resist the escape of clippings from said collection space during operation of said lawnmower and hauling of clippings in said collecting apparatus, said screen being removable from the rest of said collecting apparatus without the use of tools to facilitate dumping the clippings out of said collection space, as per claim 2.

Takahashi discloses a similar mower (A) wherein the lawnmower (A) has a deck (1), a mower handle (unnumbered) extending upwardly from said deck (1) to facilitate manipulating said lawnmower (A), an engine (3) supported by said deck (1), a cutting blade (not shown) under said deck (1) and rotating under the influence of said engine (3), a discharge opening (2) in said deck (1) through which vegetation clippings cut by said cutting blade may escape from under said deck (1);

said collecting apparatus (C) including a plurality of substantially rigid walls (see column 4, lines 61-62) at least partially defining a collection space, as per claim 1; and

wherein said collecting apparatus (C) has an open top (see column 4, lines 48-51) and further includes a removable screen over said open top to resist the escape of clippings from said collection space during operation of said lawnmower (A) and hauling of clippings in said collecting apparatus (C), said screen being removable from the rest of said collecting apparatus

(C) without the use of tools to facilitate dumping the clippings out of said collection space, as per claim 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rigid walls of Takahashi on the mower of Sullivan in order to reduce cost.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan and Takashi as applied to claim 3 above, and further in view of Hastings.

The device is disclosed as applied to claim 3 above. Sullivan further discloses wherein said handle (24) is pivotable about a pivot axis (23) between said mowing and hauling positions, as per claim 4; and

wherein said means (17, 40) for releasably mounting said collecting apparatus (8) to said lawnmower (42) requires that said collecting apparatus (8) be lifted to remove said collecting apparatus (8) from said lawnmower (42), and wherein said collecting apparatus (8) is liftable with respect to said lawnmower (42) by way of said handle (42) when said handle is in said mowing position, as per claim 5.

However, the combination fails to disclose wherein said implement further comprises means for releasably locking said handle in said hauling position to permit said collecting apparatus to be tipped clockwise and counterclockwise about an axis generally parallel to said handle pivot axis by a moment force applied to said handle, as per claim 4; and

further comprising means for releasably locking said handle in said mowing position, as per claim 5.

Hastings discloses a similar device wherein said implement further comprises means (80) for releasably locking said handle (19) in said hauling position to permit said collecting apparatus (17) to be tipped clockwise and counterclockwise, as per claim 4; and further comprising means (80) for releasably locking said handle (19) in said mowing position, as per claim 5.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the locking device of Hastings on the device of Sullivan and Takashi in order to lock the handle in a selected position.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Takahashi as applied to claim 7 above, and further in view of Serva.

The device is disclosed as applied above. However, the combination fails to disclose wherein said collecting apparatus includes first and second guide pins fixed with respect to said substantially rigid walls; wherein said second ends of said first and second arms each have arcuate guide slots into which said first and second guide pins are respectively received', and wherein said guide slots describe an arc followed by said second ends of said first and second arms when said handle is pivoted with respect to said collecting apparatus such that said guide pins remain in said guide slots during handle pivoting.

Serva discloses a similar pivoting handle (7) including first and second guide pins (23) fixed with respect to said substantially rigid walls; wherein said second ends of said first and second arms (6) each have arcuate guide slots (22) into which said first and second guide pins (23) are respectively received; and wherein said guide slots (22) describe an arc followed by said

second ends of said first and second arms (6) when said handle (7) is pivoted such that said guide pins (23) remain in said guide slots (22) during handle pivoting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the guide slot of Serva on the device of Sullivan and Takahashi in order to hold the handle in an adjusted position.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan and Takahashi as applied to claim 1 above, and further in view of Meyer et al., hereafter Meyer.

The device is disclosed as applied to claim 1 above. However, Sullivan and Takahashi fail to disclose wherein said lawnmower includes a door pivotally attached to said deck and a biasing member biasing said door to a position covering said discharge opening;

wherein said door must be opened to permit said collecting apparatus to be attached to said lawnmower, wherein said door engages a top surface of said collecting apparatus when said collecting apparatus is attached to said lawnmower;

and wherein said biasing member biases said collecting apparatus to remain mounted on said lawnmower when said door engages said top surface of said collecting apparatus.

Meyer discloses a similar mower wherein said lawnmower includes a door (4) pivotally attached to said deck and a biasing member (7A) biasing said door (4) to a position covering said discharge opening (5);

wherein said door (4) must be opened to permit said collecting apparatus (6) to be attached to said lawnmower, wherein said door (4) engages a top surface of said collecting apparatus (6) when said collecting apparatus (6) is attached to said lawnmower;

and wherein said biasing member (7A) biases said collecting apparatus (6) to remain mounted on said lawnmower when said door (4) engages said top surface of said collecting apparatus (6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the door of Meyer on the mower of Sullivan and Takahashi in order to safely cover the discharge port when a catcher is not present.

7. Claims 13, 15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Kelley.

Sullivan discloses a cart (8) adapted to be removably mounted to a lawnmower (42) and collect vegetation clippings from a lawnmower (42), and also adapted for use as a utility cart for lawn and garden applications, the cart (8) comprising:

a body (9) defined by a plurality of walls, said walls at least partially defining a collection space;

a collecting opening through which vegetation clippings flow from the lawnmower (42) into said collection space when said cart (8) is mounted to the lawnmower (42); and

at least one wheel (22) rotatable with respect to the rest of said cart (8), said wheel (22) being in a stowed position in which it supports substantially no weight of said cart (8) when said cart (8) is mounted to the lawnmower (42);

wherein said at least one wheel (22) at least partially supports said cart (8) upon the detachment of said cart (8) from the lawnmower (42) to facilitate hauling away clippings in said cart (8), as per claim 13; and

further comprising a handle (24) movable between a stowed position and a deployed position, said handle (24) being in said stowed position when said cart (8) is mounted to the lawnmower (42) and in said deployed position when hauling clippings in said cart (8), as per claim 15; and

further comprising first and second mounting pins (17) at said collecting opening, said mounting pins being adapted to be received within slots (40) on the lawnmower (42) such that said cart (8) hangs down from said pins (17) with said collecting opening aligned with a discharge opening of the lawnmower (42), as per claim 19.

However, Sullivan fails to disclose wherein the plurality of walls are substantially rigid walls, as per claim 13; and

wherein said body includes a substantially rigid bottom wall having a plurality of edges and a plurality of substantially rigid walls extending up from respective ones of said edges except for one open edge of said bottom wall, and wherein said collecting opening is defined between two of said walls and above said open edge, as per claim 18.

Kelley discloses a similar receptacle wherein the walls are substantially rigid (see column 3, lines 32-36), as per claim 13; and

wherein said body (9) includes a substantially rigid bottom wall (unnumbered) having a plurality of edges and a plurality of substantially rigid walls (unnumbered, see figure 4) extending up from respective ones of said edges except for one open edge of said bottom wall, and wherein said collecting opening is defined between two of said walls and above said open edge, as per claim 18.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rigid walls of Kelley on the device of Sullivan in order to give the basket proper form.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the mounting pins above the collecting opening, as per claim 19, since it has been held that rearranging parts of an invention involves only routine skill in the art.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan and Kelley as applied to claim 13 above, and further in view of Takahashi.

The device is disclosed as applied above. However, Sullivan and Kelley fail to disclose an open top and a removable screen over said open top to resist the escape of clippings from said collection space, said screen being removable from the rest of said cart without the use of tools to facilitate dumping the clippings out of said collection space, as per claim 14.

Takahashi discloses wherein said collecting apparatus (C) has an open top (see column 4, lines 48-51) and a removable screen over said open top to resist the escape of clippings from said collection space, said screen being removable from the rest of said cart without the use of tools to facilitate dumping the clippings out of said collection space.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the top of Takahashi on the device of Sullivan and Kelley in order to contain the grass clippings.

9. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Kelley as applied to claim 15 above, and further in view of Hastings.

The device is disclosed above. Sullivan further disclose wherein said handle (24) is pivotable about a pivot axis (23) between said stowed and deployed positions, as per claim 17.

However, Sullivan and Kelley fail to disclose means for releasably locking said handle in said stowed position to enable said cart to be lifted by said handle, as per claim 16; and said cart further comprising means for releasably locking said handle in said deployed position to enable said cart to be pivoted about an axis generally parallel to said pivot axis by applying a moment force to said handle, as per claim 17.

Hastings discloses a similar device wherein said implement further comprises means (80) for releasably locking said handle (19) in said stowed position to permit said cart (17) to be lifted by said handle, as per claim 4; and

said cart (17) further comprising means (80) for releasably locking said handle (19) in said deployed position to enable said cart (17) to be pivoted about an axis, as per claim 17.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the locking device of Hastings on the device of Sullivan and Takashi in order to lock the handle in a selected position.

#### *Allowable Subject Matter*

10. Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parker et al., Meyer et al., and Dunham have been cited as of interest.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

AMT  
July 9, 2004